

EAST RENFREWSHIRE LOCAL LICENSING FORUM20 March 2018Report by ClerkEAST RENFREWSHIRE LICENSING BOARD – LICENSING POLICY CONSULTATION**PURPOSE OF REPORT**

1. To consider making comments to the consultation exercise taking place as part of the development of a new Statement of Licensing Policy by the East Renfrewshire Licensing Board.

REPORT

2. East Renfrewshire Licensing Board must prepare and agree a new Statement of Licensing Policy by the end of 2018. As part of the process to develop the new Statement of Licensing Policy, the Board must conduct a consultation exercise. To that end a consultation exercise is now under way. In developing the new Statement, the Board is widely publicising the current Statement of Licensing Policy and is seeking views on the current policy and what changes should be made.

3. A copy of the current policy is attached (Appendix 1).

4. The consultation period runs from 15 March to 12 April. The Board will consider all responses provided during the consultation period and, depending on responses received, will consider holding evidence sessions on specific policy topics in 2018, before consulting on the terms of a new draft policy in mid-2018.

RECOMMENDATION

5. That the forum consider making comments to the consultation exercise.

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EAST RENFREWSHIRE LICENSING BOARD

The Licensing (Scotland) Act 2005

Statement of Licensing Policy

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SECTION A - STATEMENT OF LICENSING POLICY**1. INTRODUCTION**

1.1 This Statement of Licensing Policy has been prepared by East Renfrewshire Licensing Board in terms of Section 6 of the Licensing (Scotland) Act 2005 (“the Act”) to assist in the implementation and administration of the licensing of premises for the sale of alcohol within East Renfrewshire and to outline the way in which it intends exercising its functions under the 2005 Act. The Board is required to ensure that its policy promotes the licensing objectives.

These are set out in Section 4 of the Act and are:

- Preventing crime and disorder
- Securing public safety
- Preventing public nuisance
- Protecting and improving public health; and
- Protecting children from harm.

Subject to the promotion of the licensing objectives the Board recognises and supports the contribution which licensed premises make to the economy of the area, to employment, tourism and the vitality of the area.

1.2 The Board will have regard to this policy when undertaking any of its functions. This includes officers of the Board when determining applications of a type delegated to them.

1.3 This Statement of Policy will have effect from 30 June 2015 and will remain in effect until November 2018 subject to review. It will be subject to regular review and monitoring and further consultation during this period. If necessary, the Board will prepare and publish supplementary Statements of Licensing Policy. If you wish to make comment on the statement or wish

the contents to be reviewed, please contact the Licensing Section at the contact point stated on the front page.

- 1.4 The Act introduces a modernised statutory framework for liquor licensing which introduces more flexibility for the licensed trade balanced by extensive and, in appropriate cases, immediate enforcement powers for the Board.

2. PREPARATION OF STATEMENT

- 2.1 This Statement of Licensing Policy has been prepared having regard to:

- the Licensing Objectives;
- the Guidance for Licensing Boards and Local Authorities issued by the Scottish Executive;
- the terms of the Act with particular reference to Section 6.

- 2.2 In preparing the Statement, the Board consulted widely and took account of the views submitted in its adoption.

3. GENERAL PRINCIPLES

- 3.1 This Statement of Licensing Policy seeks:

- to promote the five licensing objectives; and
- to comply with the terms of the 2005 Act.

- 3.2 The Statement sets out a general approach to the way the Board will make licensing decisions but nothing in this Statement will:

- undermine the rights of any person to apply under the Act and to have that application considered on its individual merits; or
- override the right of any person to make representations on any applications or seek a review of a licence where permitted to do so under the Act.

3.3 It relates to how the Board will exercise its licensing functions under the Act, specifically as regards the regulation of the sale of alcohol and premises in which alcohol is sold all within the terms of the Act. Only material relevant to the Act and the Licensing Objectives will be taken into account by the Board when determining applications or considering reviews.

3.4 It should be recognised also that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are no longer in the licensed premises and beyond the direct control of the individual, club or business holding the premises' licence. If, however, the nuisance or anti-social behaviour is caused by misuse of alcohol, then supply of alcohol could be a relevant factor in that misuse and the Board, when provided with appropriate information about the misuse, may consider using its powers appropriately in the circumstances. For example, if the anti-social behaviour is linked with unlawful or inappropriate sales of alcohol, relating to particular premises whether to someone under 18 years of age, to a drunken person or as part of an irresponsible drink promotion the Board would be entitled to consider a premises licence review proposal under Section 37 of the Act.

4. TYPES OF APPLICATIONS AND SCHEME OF DELEGATION

4.1 The Board is responsible for the consideration of applications for:

- premises licences;

- occasional licences;
- temporary licences;
- provisional licences;
- personal licences;
- variations of licences;
- review of licences;
- transfer of licences;
- extensions of licensing hours;
- the sale of alcohol by retail; and
- the supply of alcohol in members' clubs.

4.2 The Board will provide an efficient and cost effective service to all those who are involved in the licensing process. The Board recognises that any application should only be submitted to the Board when necessary and, where straightforward, should be decided by officers to create as little inconvenience to applicants as possible.

4.3 The Board has therefore agreed that only those applications and matters which by statute are required to be considered by the Board will be submitted to it and the other applications will be determined by the Clerk and Depute Clerks to the Board (unless referred to the Board for a decision).

4.4 Those applications and matters which require to be submitted to the Board are:

- a premises licence application;
- a premises licence variation where the variation applied for is not a minor variation;
- an application for transfer of a premises licence where the applicant has been convicted of a relevant offence or a foreign offence;
- determining a personal licence application or a personal licence renewal application where the applicant has been convicted of a relevant offence or a foreign offence;

- conducting any hearing including issuing a written warning, revoking or
- suspending the licence, making a variation of a licence or, in respect of
- a personal licence, making an order revoking, suspending or endorsing
- a personal licence;
- making a closure order; and
- refusing an application for confirmation of a provisional premises licence.

4.5 All other matters are delegated to the Clerk and Depute Clerks to deal with, including without prejudice to the foregoing generality:

- granting an application for confirmation of provisional premises licence;
- all applications for transfer of a premises licence where the transferee has not been convicted of a relevant offence or a foreign offence;
- all applications for variation of a premises licence where the variation is a minor variation, which means:
 - ▶ any variation of the layout plan which does not result in any inconsistency with the operating plan;
 - ▶ where, under the operating plan, children or young persons are allowed entry, any variation reflecting any restriction or proposed restriction of the terms on which they are allowed entry to the premises;
 - ▶ any variation of the information contained in the licence relating to the premises manager including substitution of a new premises manager where the applicant has not been convicted of any relevant or foreign offence.

- all applications for personal licences or for the renewal of personal licences where the applicant has not been convicted of a relevant offence or a foreign offence;
- all applications for occasional licences where there is no notice of objection or representation or no notice from the Chief Constable recommending refusal or where conditions are proposed and accepted by the applicant;
- grant of occasional extensions of licensed hours for a special event of local or national significance (following consultation with the Convener); and
- grant of extended hours applications within the Board's normal licensing hours policy and when there is no notice of objection or representation.

4.6 In relation to the grant of extended hours or occasional licences for hours outwith the Board's Licensing Policy Hours these are delegated to the Convener and one other Board member or in the absence of the Convener two other Board members.

4.7 The Board will receive regular reports regarding licences determined under delegated powers.

5. OPERATING PLANS

5.1 All applications for premises licences must be accompanied by an operating plan and a layout plan all complying with the Act and Regulations made under that Act.

5.2 More specifically, an "operating plan" in relation to any premises is a document in the prescribed form containing:

- (a) a description of the activities to be carried on in the premises;
- (b) a statement of the times during which it is proposed that alcohol be sold in the premises;
- (c) a statement as to whether the alcohol is to be sold for consumption in the premises, off the premises, or both;
- (d) a statement of the times at which other activities, in addition to the sale of alcohol, are to be carried on in the premises;
- (e) where alcohol is to be sold for consumption in the premises, a statement as to whether children or young persons are to be allowed entry to the premises and, if they are allowed entry, a statement of the terms on which they are allowed entry including, in particular:
 - (i) the ages of children or young persons to be allowed entry;
 - (ii) the time at which they are to be allowed entry; and
 - (iii) the parts of the premises to which they are to be allowed entry;

Applicants should also note the Board's policy in paragraph 24

- (f) information as to the proposed capacity of the premises; (Square meters shall be the measurement for Off Sales)
- (g) prescribed information about the individual who is to be the premises manager; and
- (h) such other information in relation to the premises and the activities to be carried on as may be prescribed.

5.3 Where alcohol is to be sold both for consumption on and for consumption off any premises, the operating plan for the premises may state different times for:-

- (a) the sale of alcohol for consumption on the premises; and
- (b) the sale of alcohol for consumption off the premises.

5.4 In preparing and presenting the operating plan, applicants should be aware that the Board expects premises to be run in a way compliant with, and promoting, the five licensing objectives:-

- preventing crime and disorder;
- securing public safety;
- preventing public nuisance;
- protecting and improving public health; and
- protecting children from harm.

5.5 Although basic guidance may be sought from the Clerk and Licensing Standards Officers, it is for the applicant to make sure that the operating plan is in the correct form and covers all aspects of the operation of the premises. It is open to any applicant, objector or representor to seek independent legal advice.

6. BOARD MEETINGS

6.1 The proceedings of the Board shall be conducted in accordance with the provisions of paragraph 12 of Schedule 1 to the Act.

7. HEARINGS

7.1 Where a hearing is to take place, the Board will attempt to make the experience as informal as possible consistent with the carrying out of the Board's quasi-judicial function.

7.2 The normal procedure will be to hear any preliminary submissions. Then the Board will have the submission of the objector or representor in relation to an application or person seeking review of the premises licence. The applicant or his agent will then have an opportunity to address the hearing and Board members may ask questions of any of the parties. There will then be an opportunity for final submissions by all parties before the Board makes a decision.

7.3 The Board is entitled to adjourn to consider the application in private. If they do so, the Board will thereafter reconvene in public to resume consideration of, or make a decision on, the application, as appropriate.

7.4 Normally formal evidence will not be called for. It is noted, however, that under Section 133 of the Act, Scottish Ministers may make Regulations providing procedures to be followed at any hearing.

8. NOTIFICATIONS OF APPLICATIONS, OBJECTIONS AND REPRESENTATIONS

The Board will give notice of each premises licence application it receives to those persons referred to in Section 21 of the Act, namely:

- each person having a notifiable interest in neighbouring land;
- any community council within whose area the premises are situated;
- East Renfrewshire Council;
- Chief Constable of Police Scotland;
- Scottish Fire and Rescue Service; and
- NHS Greater Glasgow and Clyde Board.

Additionally the Board will list all applications received on East Renfrewshire Council's website, www.eastrenfrewshire.gov.uk and/or maybe listed on the Tell Me Scotland website.

9. CONSIDERATION OF PREMISES LICENCE APPLICATIONS

- 9.1 The grounds for refusal of a premises licence are set out in full at Section 23 of the Act. If the Board consider that none of these grounds apply it must grant the application and if it considers that one or more apply it must refuse the application.
- 9.2 When considering whether or not any application should be granted, the Board will take into account relevant matters including:-
- the nature of the premises, the style and type of use, the potential number and profile of the customers likely to attend the premises;
 - the proposed hours of operation;
- 9.3 Where it is possible to take steps to mitigate or prevent any potential impact, the Board may still be able to grant a licence subject to conditions; each case will be considered on its own merits and appropriate advice will be sought by the Board.
- 9.4 When considering any application for premises which have been previously licensed or in any review of an existing licence, the Board will take into account any historical evidence, especially of the impact on local residents and will also look at the measures put into effect by the applicant to mitigate the adverse impact.

10. OCCASIONAL LICENCES

- 10.1 An occasional licence authorises the temporary sale or supply of alcohol which is not authorised by a premises licence.
- 10.2 It may be applied for by:
- the holder of a premises licence;
 - the holder of a personal licence; or

- a representative of any voluntary organisation;

to cover a period of a maximum of fourteen days.

10.3 The grant of an occasional licence is subject to the mandatory conditions laid out in Schedule 4 to the Act.

10.4 There are restrictions on the number of applications a voluntary organisation can make, in any period of twelve months. Guidance on the number of occasional licenses allowed, is available from the Board or the Licensing Standards Officer. Whereas the Board accepts that there is no limit, at present, on the number of occasional licences a premises or personal licence holder may apply for, the Board is concerned that multiple back to back applications are made instead of an application for a premises or provisional premises licence, as doing so may have an impact on the licensing objectives. Therefore, any more than six back to back applications (together or individually) will be referred to the Board for a decision.

10.5 Event organisers are encouraged to provide as much notice of their event as possible to the Board. The Board will consult with the Licensing Standards Officer on all applications and will notify the Chief Constable. Applications will generally require to be lodged a minimum of twenty one days before the proposed event, but shorter time periods will be considered on request.

10.6 The Board will consider on a case by case basis whether it is necessary to impose conditions to give effect to the licensing objectives.

11. **EXTENDED HOURS APPLICATION**

11.1 Extended hours applications allow for an occasional extension of licensed hours and operate only for a period of up to one month. If the Board receives a number of applications to extend licensed hours, it will expect

the applicant to consider whether an application should be made to vary the premises licence by adjustment of the operating plan.

- 11.2 The Board may make a determination under Section 67 of the Act to extend licensed hours to enable premises to remain open longer for certain special occasions. If a determination is made, it will notify its determination to the Chief Constable, to holders of licences and other relevant parties and will take appropriate steps to publicise the determination as widely as possible.

12. EXCLUDED PREMISES

- 12.1 In terms of Section 123 of the Act, excluded premises includes:

- premises used as a garage; and
- premises used as a garage which form part of larger premises.

No premises licence or occasional licence can be obtained for excluded premises.

- 12.2 Premises are used as a garage if used for one or more of the following:-

- the sale by retail of petrol or fuel for diesel engined road vehicles (DERV);
- the sale of motor vehicles; or
- The maintenance of motor vehicles.

- 12.3 There is an exception to this exclusion but only if persons resident in the locality of the garage are or are likely to become reliant to a significant extent on the garage as a principal source of:

- petrol or DERV; or
- groceries.

If that is the case the garage is not excluded premises and may therefore be the subject of a premises or occasional licence.

- 12.4 The Board will expect an applicant making an application to provide evidence of local residents' reliance on the service together with an impact assessment in relation to the anticipated impact taking into account the licensing objectives.

13 MEMBERS CLUBS

- 13.A.1 Members' clubs have been included in the premises licensing system. The Scottish Government acknowledges that it would be reasonable to reflect their special characteristics.
- 13.A.2 In order to benefit from the exemptions available members' clubs will require to meet the criteria prescribed in the Licensing (Clubs) (Scotland) Regulations 2007.
- 13.A.3 When members' clubs apply to the licensing board they will be asked to certify whether or not they comply with the criteria referred to at paragraph 13.A.2 in order to benefit from the exemptions. If they do the members' clubs will have to submit to the board a copy of their written constitution and rules. They will be subject to inspections by Licensing Standards Officers, who will check clubs for compliance.
- 13.A.4 Members' clubs will be subject to the same provisions regarding access by children as other licensed premises. They will require to specify in their operating plans whether or not it is proposed that children and young persons are to be allowed entry to the premises and, if so, to specify the

terms, to include the times, the ages of such children and the parts of the premises to which they would be permitted access. Appropriate conditions relating to access by children may be attached by the licensing board.

14. OBJECTIONS AND REPRESENTATIONS

14.1 The following information should in no way be seen as overriding the right of any person to make an objection to an application or to seek a review of a premises licence.

14.2 Any person may submit an objection or representation to the Board in relation to a premises licence. The objection must relate to one or more of the licensing objectives.

14.3 Although anyone is entitled to object to an application for a premises licence or seek a review of a premises licence, the Board may reject an objection or an application for review where it is considered to be “frivolous” or “vexatious”.

“Frivolous” and “vexatious” are the words used in the Act. In determining this, the Board is entitled to recover any expenses incurred by the Board in considering the objection or application for review.

14.4 Objections will be considered on their merits and the ordinary meanings of “vexatious” and “frivolous” will be adopted.

15. LICENSING HOURS

15.1 While each application is assessed on its own merits, the following section sets out the Licensing Board’s policy on licensing hours. For applications for licensed premises at times outwith the Board’s policy, applicants will require to demonstrate to the Board that the additional requested hours are appropriate in the circumstances to those particular premises.

15.2 Off-Sale

For applications relating to premises licences and to occasional licences, the licensed hours for the sale of alcohol for consumption off the premises (off sale hours) are 10am until 10pm every day. The Licensing Board has no discretion to permit licensed hours outwith these times. In determining applications and licensed hours within these times, the Board will, in considering the merits, have particular regard to the effect (if any) which the proposed off-sale hours would have on the occurrence of anti-social behaviour. However, it is open to the Board to further restrict licensed hours for off-sales where it considers that the hours proposed would be inconsistent with the Licensing Objectives.

15.3 On-Sale

Licensed hours for on-sale premises in particular can have an impact not only within the individual premises, but also within the locality in which the premises are situated. Taking into account the five licensing objectives, the presumption against 24 hour drinking, the statutory guidance for licensing boards and local authorities issued by the Scottish Executive, and mandatory conditions specified by the regulations applicable to those premises opening after 1.00am, the Licensing Board considers the following policy to be appropriate.

Applicants should be aware of the Board's views and the hours which will generally be allowed. For on sales premises it is the Board's view that the previously adopted policy on hours of operation has served East Renfrewshire well. Accordingly, the Board re-affirms the hours which have operated in East Renfrewshire over a number of years, updated to reflect the terms of the Licensing (Scotland) Act 2005.

Commencement Hours: Monday – Sunday

9.30am: premises, for the purpose only of funeral
purveys/receptions (or in the case of Registered Clubs
only where club activities are taking place)
and otherwise

11.00am: all premises

Terminal hours: Sunday — Thursday

12 Midnight all licensed premises (including registered clubs).

Friday & Saturday

1.00am all licensed premises (including registered clubs).

15.4 The Board has an existing practice of permitting longer licensed hours over the festive period and that will continue to be the case. The festive period for the purposes of this aspect of the policy will be determined by the Board on an annual basis.

16. OVERPROVISION OF LICENSED PREMISES

16.1 Under Section 7 of the Act the Board is required to produce a statement as to the extent that the Board considers there to be overprovision of licensed premises or licensed premises of a particular description in any locality within the Board's area.

16.2 In determining locality, the statutory Guidance for Licensing Boards indicates that the process by which the selection exercise is carried out is largely a matter for the Board and will no doubt involve the use of its local knowledge. The Guidance also recommends that the information which

the Chief Constable is capable of providing is a reasonable starting point. He would be able to:-

- Identify 'hot spot' areas within the Board's area where it can be demonstrated that crime, disorder and nuisance are caused by customers of a concentrated number of licensed premises;
- Suggest other areas in which the number of licensed premises or premises of a particular description is moving closely towards overprovision and;
- Provide the Board with the geographical boundaries of these areas

16.3 The East Renfrewshire Licensing Board has consulted with key Stakeholders in connection with overprovision within East Renfrewshire and having taken all of the information into account has concluded the following:-

- The Board has previously decided to divide East Renfrewshire into 10 areas based on Community Council boundaries as these are broadly recognised as distinct communities by local residents. The 10 areas are:
 - a. Uplawmoor
 - b. Neilston
 - c. Barrhead
 - d. Newton Mearns
 - e. Thornliebank
 - f. Giffnock
 - g. Clarkston

h. Netherlee & Stamperland

i. Busby

j. Waterfoot & Eaglesham

- Having taken into account the information received during the consultation process, the Licensing Board has concluded that there is presently no need for any of the areas to be deemed as overprovided.
- The Board does not consider food based establishments, hotels or specialists outlets problematic. The Board is aware that some areas are well provided for off sales only premises and premises where drinking of alcohol is the primary or only activity e.g. (vertical drinking establishments” or “pubs”). Whereas the Board is not declaring these areas as overprovided, the Board may consider overprovision as a separate ground of refusal in the event that the Board considers any of these areas is getting close to overprovision.
- In particular, the Board considers central Barrhead as well served for premises providing primarily drinking of alcohol and off sales only premises.
- The Fenwick Road area of Giffnock and Eaglesham village are also considered well served for off sales only premises.

- Although the Board is not declaring overprovision in any area of East Renfrewshire, it will pay particular attention to new licence applications of the above type in the above areas with the possible use of the overprovision ground of refusal. However, primarily food based premises or speciality premises where drinking alcohol is incidental to the main activity will still be a welcome addition to the local community and local economy of East Renfrewshire.
- The Licensing Board is aware of the potential for alcohol to be harmful within the community and whereas it does not consider that that level of harm yet requires the area to be declared overprovided, the Board will continue to monitor the situation always having regard to the Scottish Government Guidance For Licensing Boards when considering overprovision.

17. PERSONAL LICENCES

- 17.1 The Board will consider applications for personal licences from individuals living in the area of East Renfrewshire.
- 17.2 Any individual may seek a personal licence. The Board will grant a personal licence if it is satisfied that the applicant:
- Does not clearly hold a personal licence
 - is over 18 years of age
 - possesses a relevant licensing qualification
 - has not had a personal licence revoked in the previous five years, ending with the day on which the application was received

- has not been convicted of any relevant offence or foreign offence.

17.3 Where the police have advised that the applicant has an unspent conviction for a relevant offence, the Board will consider whether the application should be refused under the Act. In making a decision the Board will have regard to the seriousness and age of the conviction along with any other circumstances it considers to be relevant.

18. LOCAL LICENSING FORUM

18.1 The formulation of this policy involved consultation with the East Renfrewshire Licensing Forum which will keep under review the operation of the Act in East Renfrewshire and will advise and make recommendations to the Board as appropriate. The Board will have regard to any advice given or recommendation made to it.

18.2 In order to ensure proper communication with the East Renfrewshire Licensing Forum, the Board may from time-to-time provide reports to the Forum to enable it to have an appreciation of, and due regard to, the detail of such matters during their deliberations.

SECTION B – PROMOTION OF THE LICENSING OBJECTIVES

19. INTRODUCTION

19.1 The Board will continually promote the licensing objectives and calls on licence holders and other stakeholders to be mindful of these when providing their services. The Board recognises that there are some types of alcohol misuse issues which are not connected to consumption of alcohol in licensed premises.

19.2 The licensing objectives are:

- preventing crime and disorder;
- securing public safety;
- preventing public nuisance;
- protecting and improving public health; and
- protecting children from harm.

19.3 The following paragraphs set out the Board's general policy in respect of the objectives. The Board may when necessary impose a range of conditions which will be appropriate to a particular licence. The purpose of such conditions will be to promote the licensing objectives.

19.4 In each section relating to the objectives, the Board has defined its intended outcome. Each section lists the influencing factors on the achievement of that objective but, because of the wide variety of premises and activities to which this policy applies, the lists provided are not exhaustive. Applicants will know their own premises best and will be expected to address all aspects relevant to the individual style and characteristics of their premises and the licensable activities for which they are seeking authorisation.

19.5 In each sub-section, a list of possible control measures is provided. This is intended to be of assistance to applicants, but again is not intended to be

an exhaustive list. Many control measures achieve more than one objective but have not necessarily been listed under each objective.

20. THE PREVENTION OF CRIME AND DISORDER

20.1 The Board, in carrying out its functions, will have regard to the likely impact of licensed activities and related crime and disorder when considering the location, operation and management of all licence applications, reviews and variations.

20.2 The Board supports a strategy aimed at making East Renfrewshire a safe place to live and visit. The Board is committed to improving the quality of life for the people of East Renfrewshire by ensuring that licensed premises are managed in such a way as not to contribute to crime and disorder. Applicants are expected to consider how they will promote the prevention of crime and disorder. The applicants should also be able to demonstrate that all those factors which impact on crime and disorder have been considered. These include:-

- underage drinking;
- drunkenness on the premises;
- public drunkenness;
- illegal possession and/or use of Drugs;
- violent behaviour;
- anti-Social Behaviour; and
- litter

20.3 Applicants are encouraged to discuss crime prevention procedures in their premises with the Council and Police Scotland. Factors may include underage drinking, drunkenness on premises, public drunkenness, drugs, violent behaviour and antisocial behaviour.

20.4 The following examples of control measures are given to assist applicants who may need to take account of them in their operating plan having regard to their particular type of premises and/or licensable activities:-

- having a written crime prevention strategy;
- effective and responsible management of premises;
- training given to staff to include preventing crime and disorder and conflict management;
- training and effective supervision of staff;
- written policies on mandatory proof of age scheme;
- provision of effective CCTV in and around the premises;
- security policies and regular toilet checks;
- employment, when necessary, of Security Industry Authority licensed door staff;
- active membership of Pubwatch or Radiolink type schemes or similar schemes;
- provision of litter bins and lighting outside premises;
- provision of plastic or toughened drinking vessels;
- justification for size of measure; and
- choice of size of wine glass.

20.5 Licence holders are called upon to take positive action to discourage drinking and driving . Licence holders are, therefore, encouraged to play an active part in preventing drink driving by:-

- displaying anti-drink driving materials;
- supplying reasonably priced non-alcoholic drinks; and
- promoting awareness of campaigns such as designated drivers scheme.

20.6 Sectarianism

The Licensing Board is aware that the issue of sectarianism is of public concern and debate in Scotland.

For the purposes of this policy the Board defines Sectarianism as follows:-

Sectarianism is an open display of bigotry, discrimination, prejudice or hatred arising from attaching importance to perceived differences between subdivisions within a group, such as between different denominations of a religion or the factions of a political movement. This may also include issues arising from ethnicity and class-divisions.

The Board is of the opinion that sectarian conduct in premises can lead to incidents resulting in intimidation and violent behaviour, which in turn may pose a threat to public safety and thus be contrary to the fundamental principles set out in section 1 of this policy.

A licensee should not behave in such a manner that appears to promote or tolerate the acceptance of sectarian behaviour, either by members of the public or staff. Actions which amount to the above can cause offence and have the result that members of the public will feel excluded from the premises by way of their beliefs.

The identification of sectarian items or entertainment on premises will be at the discretion of the Licensing Standards Officer and police.

If a situation arises where the licensee disputes the decision of the Licensing Standards Officer, the licensee can request to have the Board examine the items or the nature of the entertainment and render a decision.

20.7 Illegal Substances

The Board are aware that use of illegal substances is a problem being faced in the Licensed Trade. The Board would advise all licensees to give consideration to possible methods to actively deter such activity in and around their premises.

20.8 Litter and Waste Management

In the interests of the environment and hygiene of licensed premises within East Renfrewshire the licensee should have sufficient waste management initiatives in place to ensure that the inside and outer perimeter of the premises is free of litter and debris, including cigarette ends and general debris.

20.9 Dispersal

The Board suggests that licensees should ensure that their staff have sufficient training in place and consider measures to ensure dispersal of customers in an orderly fashion and to ensure order is maintained and nuisance avoided during dispersal.

21 SECURING PUBLIC SAFETY

21.1 The Board recognises that the term “licensed premises” will cover a wide range of premises and activities, each with its own safety risks or issues. The premises must be constructed or adapted and operated in such a manner as to safeguard occupants from those risks or issues. The Board is committed to ensuring that the safety of any person visiting or working in or in the vicinity of licensed premises is not compromised.

21.2 Issues may involve:-

- occupancy capacity of the premises;
- age, design and layout including means of escape;
- nature of activities such as music and dancing;
- hours of operation;
- customer profile (e.g. age, disability); and
- use of special effects such as lasers, pyrotechnics and, smoke machines.

21.3 The following examples of control measures are given to assist applicants who may need to take account of them in their operating plan having regard to their particular type of premises and/or licensable activities:-

- suitable and sufficient risk assessments;
- effective and responsible management of premises;
- sufficient number of staff;
- appropriate instruction, training and supervision of staff;
- having an effective glass management policy either involving the removal of all glassware regularly or by providing toughened or plastic drinking vessels.
- having a written policy on how to deal with customers and any other person in the premises who may become incapacitated or vulnerable due to drink or drugs;
- having first aid facilities;
- informing Police Scotland of any special events taking place in the premises or issues relating to public safety;
- having a written accident recording system;
- displaying local transport information to facilitate safe journeys home for customers;
- adoption of best practice guidance;
- provision of effective CCTV coverage;
- implementation of crowd management systems; and
- proof of regular testing and certification where appropriate of procedures, appliances and safety systems.

22. THE PREVENTION OF PUBLIC NUISANCE

22.1 Licensed premises have a significant potential to impact adversely on communities, through public nuisances that arise from their operation. The Board wishes to maintain and protect the amenity of residents and local businesses from the potential consequences of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

- 22.2 Although interpretation is ultimately a matter for the Courts, the Board intends to interpret “public nuisance” widely and understands it to include such issues as noise, light, odour, litter and anti-social behaviour where these impact on those living, working or otherwise engaged in normal activity in an area or locality.
- 22.3 “Anti-social behaviour” is defined in the Anti-social Behaviour, etc. (Scotland) Act 2004 as behaviour where a person acts in a manner that causes or is likely to cause alarm or distress or pursues a course of conduct that causes or is likely to cause alarm or distress to at least one person who is not from the same household as the person engaging in the behaviour; conduct includes speech.
- 22.4 The Board expects that licence holders will have regard to good practice. It is their responsibility to ensure that patrons do not create a nuisance or disturbance for residents living nearby. This includes noise arising as a result of patrons smoking outside the premises and any associated littering of the area.
- 22.5 Every business has a duty to ensure that waste is disposed of securely and to keep their premises clear of all litter generated by staff and customers. The Board expects licence holders to be aware of their responsibilities and of the possibility of statutory street litter control notices in the case of non compliance.
- 22.6 In addition, when applicants propose to provide outside seating, tables or other facilities in any outdoor area, whether covered or not, regard should be had to the need to ensure that the use of such areas will not cause disturbance or nuisance to the occupiers of other premises in the vicinity.
- 22.7 When addressing the issue of preventing public nuisance, the following factors are relevant and should be considered:-

- The location of premises and proximity to residential and other noise sensitive premises such as hospitals, hospices, care homes and places of worship.
- The hours of opening, particularly after 11pm.
- The nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside the premises.
- The design and layout of premises and in particular the presence of noise limiting features and a CCTV system, which complies with current legislative requirements.
- The occupant capacity of the premises.
- The availability of public transport and taxis.
- The wind down time between the end of the licensable activities and the closure of the premises.
- The last admission time.

22.8 The following examples of control measures are given to assist applicants who may need to take account of them in their operating plan, having regard to their particular type of premises and/or licensable activities:-

- Effective and responsible management of premises.
- Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance.
- Control of operating hours for all or parts of the premises — for instance, garden areas, bottle disposal and deliveries.
- Adoption of best practice guidance.
- Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices.
- Management of people, including staff and vehicular traffic and resulting queues, arriving and leaving the premises.
- Liaison with public transport providers.
- Siting of external lighting, including security lighting and installation of an effective CCTV system which complies with current legislative requirements.
- Effective ventilation systems to prevent nuisance from odour.

- Active membership of Pub Watch, radio link type schemes or similar schemes.
- Keeping doors and windows closed during noisy periods.
- Avoiding loud speakers and live music next to party walls to residential properties

23. PROTECTING AND IMPROVING PUBLIC HEALTH

23.1 Licence holders can help promote this objective in many ways. They can use materials such as posters, beer mats which promote moderate consumption of alcohol along with awareness of units of alcohol and the recommended guidelines for consumption of alcohol by men and women. A wine list, for example, might state how many units of alcohol per glass or bottle together with a reminder of the guidelines. The Board is concerned about the link between the consumption of alcohol and public health. The Board wishes to see premises thriving in East Renfrewshire but this cannot be at the expense of patrons' health and wellbeing. The Board will have regard to the views of, and take advice from the relevant bodies responsible for and interested in the protection and promotion of public health in East Renfrewshire.

23.2 Licence applicants, door stewards where employed and premises managers as well as other staff employed in the premises must remain vigilant at all times to the risks of excessive consumption. There should be an established practice within the premises to ensure that a standard approach is taken where a patron's demeanour demonstrates an excessive consumption of alcohol. There should also be a clear understanding of the offences committed in connection with agent purchasing the service of alcohol to children or persons who appear drunk and allowing drunkenness on the premises.

23.3 The following examples of control measures are given to assist applicants who may need to take account of them in their operating plan having regard to their particular type of premises and/or licensable activities:-

- displaying anti-drunkenness materials along with information on units of alcohol in the context of recommended guidelines;
- having a workplace alcohol policy in order to raise awareness, minimise harm and ensure that staff are able to access help (without fear of a job loss) when a problem arises; and
- ensuring customers are aware of choice in relation to alcohol measures particularly wine e.g. small, medium or large glasses should be available.

24 PROTECTING CHILDREN FROM HARM

24.1 The Board wishes to see family friendly premises thriving in East Renfrewshire. Where applicants wish to operate such premises, the Board expects them to appreciate that this places additional responsibilities upon them at the same time recognising that parents and other adults accompanying children also have responsibilities.

24.2 The Act defines children as persons under the age of sixteen. The Board encourages applications that make venues family friendly and safe for children. The Board, however, will have particular regard to this objective when:-

- there have been convictions of staff or licence holders for serving alcohol to underage persons or where premises are in an area where there is a history or other evidence of underage drinking;
- there is a serious element of gambling within the premises;
- entertainment of an adult nature is provided;
- the operating plan shows that the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the service provided (referred to as vertical drinking establishments);

- licence holders or staff have criminal convictions for offences against children or have otherwise been found unsuitable to work with children.

24.3 The following examples of control measures are given to assist applicants who may need to take account of them in their operating plan having regard to their particular type of premises and/or licensable activities:-

- effective and responsible management of premises;
- appropriate instruction, training and supervision of staff;
- adoption of best practice, including a written policy on prevention of sales of alcohol to children;
- limitation on the hours when children may be present, in all or parts of the premises;
- limitations or exclusions by age;
- acceptance of accredited proof of age schemes, including Challenge 25;
- measures to ensure children do not purchase, acquire or consume alcohol;
- measures to ensure children are not exposed to incidences of strong and offensive language, violence or disorder;
- use of fixed fire guards on open fires and prohibition of mobile heaters when young children are in the premises;
- availability of high chairs and suitable drinking vessels for young children;
- ensuring staff involved with the delivery of alcohol along with takeaway food have appropriate training.

24.4 When preparing the operating plan, applicants must set out the terms on which children are to be allowed entry including the ages of children to be allowed entry, times and parts of the premises to which children will have access.

24.5 Where children and young persons are permitted entry to the premises, the Licensing Board may place a limit on the hours when children and young persons may be present on the premises. Generally this limit will be for on sales, children 15 years and under must vacate by 10 pm. 16 years and above may stay until the appropriate terminal hour but each application will be considered on its merits and the Licensing Board will take into account the measures each applicant proposes taking in order to protect children from harm.

In the event that it is intended that children under the age of 16 years are to be permitted entry to licensed premises after 10 pm the applicant shall make an appropriate written request to the Clerk of the Licensing Board giving details of the event. The Licensing Board or the Licensing Standards Office will in that event carry out an assessment of the premises in relation to their suitability for the presence of children and report on this to the Clerk/Depute Clerk of the Licensing Board who will have delegated authority to approve or refuse the request. Once premises are assessed as suitable, they need only be assessed on an annual basis thereafter.

Any children permitted access to licensed premises must be accompanied at all times by a person aged 18 years or over (excluding premises licences authorising the sale of alcohol for consumption off the premises only or otherwise authorised by the Board).

25. RELATIONSHIP WITH OTHER STRATEGIES

25.1 The Board will endeavour to secure proper integration with local crime prevention, community safety, health, planning, regeneration, transport, tourism, race equality and cultural strategies.

25.2 There are a number of wider issues which require to be given due consideration when dealing with applications. The Board will receive, when

appropriate, reports on the needs of tourism or regeneration in relation to East Renfrewshire, from the Council's Director of Environment to make sure that these are reflected in the Board's consideration.

25.3 The Board recognises that licensing applications are not, and should not be seen as, a re-run of the planning application process and that there is a clear separation of the planning and licensing regimes.

25.4 In addition, the Board will not attach conditions to a premises licence unless these are considered necessary for the promotion of the licensing objectives. Conditions will generally be considered unnecessary where these would relate to matters already covered by other legislation.

26. AVOIDING DUPLICATION

26.1 The Board will, so far as possible, avoid duplication with other regulatory regimes such as health and safety at work, fire safety, building standards and planning.

27. CONDITIONS

27.1 The Act, in Schedule 6, provides mandatory conditions for premises licences. The Board has power to impose additional licence conditions. These conditions will not be inconsistent with or seek to strengthen or restrict mandatory conditions and will only be imposed when considered necessary for the promotion of the licensing objectives.

27.2 The Board have agreed various local conditions to be applied to particular premise type/activities. These are attached at Appendices I, II and III hereof.

28. THE HUMAN RIGHTS ACT 1988

28.1 The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for bodies such as the Board to act in a way which is incompatible with a Convention Right. The Board will have particular regard to the following relevant provisions of the European Convention on Human Rights in respect of its licensing responsibilities:-

- Article 6: that in the determination of civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
- Article 8: that everyone has the right to respect for their home and private life; and
- Article 1 of the First Protocol: that every person is entitled to the peaceful enjoyment of their possessions including, for example, the possession of a premises licence.

29. EQUALITY

29.1 The Board values and celebrates the diversity that exists within East Renfrewshire and wants to ensure that everyone can fully participate in the social, cultural, political and economic life of East Renfrewshire.

29.2 The Board opposes all forms of unlawful discrimination including (but not limited to) discrimination on the grounds of race, ethnicity, gender, sexual orientation, age, religion and disability and recognises that discrimination creates barriers to achieving equality for all people.

30. DISABILITY

30.1 The Board will, at all times, have due regard to the Equality Act 2010 and any subsequent and similar legislation and also the need to:-

- eliminate unlawful discrimination, and
- promote equality of opportunity.

31. RACE EQUALITY

31.1 The Board will, at all times, have due regard to the Equality Act 2010 as amended and any subsequent and similar legislation and the need to:-

- eliminate unlawful discrimination; and
- promote equality of opportunity and good relations between persons of different racial groups.

32. GENDER EQUALITY

32.1 The Licensing Board will, at all times, have due regard to the Equality Act 2010 and any subsequent and similar legislation and the need to:-

- eliminate unlawful discrimination and harassment; and
- promote equality of opportunity for women and men.

33. ENFORCEMENT

33.1 The Board will follow best practice in enforcement including adoption of the best Regulation Principles and the Hampton Standards, namely, that its actions will be: proportional, accountable, consistent, transparent and targeted.

33.2 East Renfrewshire Council have agreed to appoint one Licensing Standards Officer (LSO) (i) to investigate allegations of unlicensed activities, (ii) to ensure that licence conditions are complied with and (iii) to provide information, guidance and a mediation service. It is a mandatory condition of the Act that the LSO is fully trained thus enabling them to carry out their functions efficiently. The LSO will be a member of the East Renfrewshire Licensing Forum.

- 33.3 Initially, it is anticipated that resources will be targeted towards high-risk premises and activities that require greater attention whilst a lighter touch will be provided in respect of low-risk premises which are well operated.
- 33.4 The Board will liaise closely with its partners to assist licence holders to comply with the law and the five licensing objectives it seeks to promote. Proportionate but firm action will be taken against those who commit offences. In particular the Board anticipates co-operation with the police and to share information where appropriate in order to enhance the promotion of the five licensing objectives.
- 33.5 When a matter is submitted to the Board by the Licensing Standards Officer, it is expected, except in the most serious cases, that attempts will already have been made through advice, mediation and negotiation to address the matter. It is, therefore, envisaged that very few such cases will need to be submitted to the Board.

It should be appreciated, however, that, in appropriate cases, the Board will not hesitate to use its powers to suspend or revoke a licence, notwithstanding that this may have a detrimental impact on the business.

34. POLICY RELATIVE TO THE MANAGEMENT OF OUTSIDE DRINKING AREAS

Where applicants for a premises licence propose within their operating plan to provide an outside drinking area or areas, the Board will expect the applicant to have regard to the need to ensure that the use of such areas will not cause disturbance or nuisance to the occupiers of other premises in the locality. Generally, an outside drinking area will only be permitted to operate until 10 pm unless with the express consent of the Licensing Board. This permission will only be permitted in exceptional circumstances and on cause shown or in circumstances where disturbance or nuisance to others is shown to be unlikely due to the location of the outdoor drinking area.

Where an applicant intends to apply for an outside drinking area to be included within the licensed area of the premises, that area must be included within the layout plan for the premises and clearly indicated as such. The applicant must also be able to advise as to how the proposed licensed outdoor area will be delineated on the ground. The requirement for physical delineation on the ground will then be made a condition of the premises licence in respect of outdoor drinking areas. It is expected that Licensing Standards Officers will monitor for compliance with this particular condition and report to the Board as appropriate.

It will also be a condition of the premises licence in respect of outdoor areas that sufficient ashtrays and other litter receptacles are to be provided in outdoor areas which are excluded from the definition of "*no smoking premises*" as prescribed in the Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006.

The Board will also expect the applicant to be able to demonstrate their intention to put in place effective management controls, supervision and other measures to ensure that the use of such areas by patrons does not have an adverse impact on the locality, particularly to occupiers of premises in the vicinity of the application premises.

In relation to noise control, and in pursuance of the Licensing Objective of Preventing Public Nuisance, generally, the Board will not permit amplified sound or music to be played within, or relayed to, outdoor drinking areas.

Where the proposed outdoor area is situated on a public footway, the Board expects applicants applying for outdoor areas to have obtained consent from the Council's Roads Division under section 59 of the Roads (Scotland) Act 1984. The Board expects that premises licence holders will comply with all conditions which may be attached to that consent. Also such outdoor areas should only be used for the consumption of alcohol by those **seated** in the area – no external “vertical drinking” should take place on a public footway. The Board will generally not apply this requirement to

external “vertical drinking” areas which are contained within “beer gardens” provided the extent of that facility does not cause public nuisance. Such outdoor areas will also have a fixed capacity, by way of a condition attached to the licence.

For the purposes of this Policy Statement, and for the avoidance of doubt, "beer gardens" are enclosed areas of private ground included within the licensed premises as per the approved operating plan and layout plan and which do not require consent in terms of section 59 of the Roads (Scotland) Act 1984. "Public footway" is the area for which consent is required in terms of that section.